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PRACTICE LIMITED TO MATTERS BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

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November 25, 1996

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

**RECEIVED**

**NOV 25 1996**

Federal Communications Commission  
Office of Secretary

RE: Formal Comments  
Tri-County Broadcasting Company, Inc.  
MM Docket No. 96-123 (RM - 8875)  
Tullahoma, Tennessee

96-213  
DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Transmitted herewith, on behalf of Tri-County Broadcasting Company, Inc., through counsel, are an original and six (6) copies of "Formal Comments" in connection with the Tullahoma, Tennessee Rule Making Proceeding (MM Docket No. 96-123 (RM-8875)).

Please correct the FCC's records to reflect the fact that the undersigned is "counsel of record" for Tri-County Broadcasting Company, Inc. Copies of all pleadings and correspondence should be sent to counsel, at the address noted above.

Should any questions arise regarding this matter, kindly contact the undersigned, directly.

Respectfully submitted,

By: \_\_\_\_\_

Richard J. Hayes, Jr., Esquire

Counsel to: Tri-County Broadcasting Company, Inc.

RJH:tb  
Enclosures

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC 20554

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NOV 25 1996

Federal Communications Commission  
Office of Secretary

In the Matter of:

Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
Tullahoma, Tennessee

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)  
)  
)  
)  
)

96-213  
MM Docket No. 96-123  
R.M. 8875

TO: Chief, Allocations Branch

**FORMAL COMMENTS OF TRI-COUNTY BROADCASTING COMPANY, INC.**

COMES NOW, Tri-County Broadcasting Company, Inc. through counsel, with FORMAL COMMENTS in the above-captioned Rule Making Proceeding.

Tri-County Broadcasting Company, Inc. submitted a "Petition for Rule Making" to the Federal Communications Commission requesting the allotment of Channel 296A to Tullahoma, Tennessee as the community's second, local FM service.

On October 11, 1996, the Federal Communications Commission adopted a **Notice of Proposed Rule Making** which was released on October 18, 1996 (DA 96-1697).

In that Petition for Rule Making, the Federal Communications Commission indicated that the proposal by Petitioner warranted consideration since it could provide Tullahoma with an additional FM service. The FCC further stated that Channel 296A could be allotted to Tullahoma in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.5 km west in order to avoid short-spacing conflicts

with the licensed site of Radio Station WSKZ(FM), Channel 293C, Chattanooga, Tennessee; Radio Station WBLG(FM), Channel 296C2, Smiths Grove, Kentucky and the Construction Permit for Channel 297C1 of Radio Station WQLT(FM), Florence, Alabama.

The **Notice of Proposed Rule Making** seeks "Comments" on the proposed amendment of the FM Table of Allotments and adopted a "Comment" deadline of December 9, 1996. "Reply Comments" must be submitted before December 24, 1996. Accordingly, Tri-County Broadcasting Company, Inc. submits these "Formal Comments" in response to the issuance of the **Notice of Proposed Rule Making**.

In a footnote to the **Notice of Proposed Rule Making**, the FCC indicated that:


"Although Petitioner's request indicates that the original copy of his proposal was signed, Petitioner failed to include an affidavit verifying the statements contained in his petition were accurate to the best of his knowledge. Section 1.52 of the Commission's rules requires that the original of any document filed with the Commission by a party not represented by counsel must be signed and verified by the party and his/her address stated. In absence of such verification, the petition may be dismissed. Section 2.420(b) of the Commission's rules concerning Rule Making Proceedings places petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. Therefore, petitioner is requested to rectify this omission in his comments."

Tri-County Broadcasting Company, Inc. and its President, Hughes (Joe) Brewer has attached to these "Formal Comments" an "Affidavit" which verifies the statement contained in the original "Petition" were

accurate to the best of his knowledge. As stated in the cover letter to these "Formal Comments," Tri-County Broadcasting Company, Inc. is now represented by counsel. At the time the "Petition for Rule Making" was submitted, Tri-County Broadcasting Company, Inc. was not represented by counsel. The attached "Affidavit" satisfies the requirements of Section 1.420(b) as they relate to the original "Petition for Rule Making."

Tri-County Broadcasting Company, Inc. hereby states that it has a continued interest in the allotment of Channel 296A to Tullahoma, Tennessee as that community's second, local FM service. Should the FCC adopt a **Report and Order** adding Channel 296A to Tullahoma, Tennessee, Tri-County Broadcasting Company, Inc. will submit an application for a new FM broadcast station construction permit (FCC Form 301). In addition, should that application for a new FM broadcast station construction permit be granted, Tri-County Broadcasting Company, Inc. will expeditiously commence construction of the newly authorized facility.

Respectfully submitted,

By:   
Richard J. Hayes, Jr., Esquire  
Counsel to: Tri-County Broadcasting Company, Inc.

Dated: November 15, 1996

Richard J. Hayes, Jr., Esquire  
Attorney at Law  
13809 Black Meadow Road  
Spotsylvania, Virginia 22553  
(540) 972-2690

**AFFIDAVIT OF HUGHES (JOE) BREWER**

I, Hughes (Joe) Brewer, having been duly deposed and sworn, hereby provide the Federal Communications Commission with the following testimony required by Footnote No. 1 of the **Notice of Proposed Rule Making** (DA 96-1697) in MM Docket No. 96-123 (R.M. 8875), as follows:

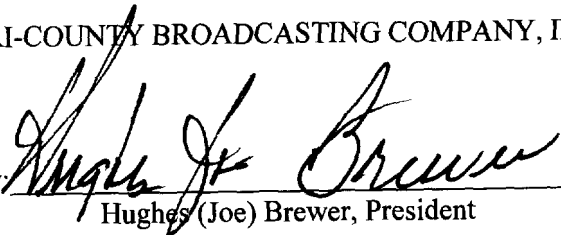
1. My name is Hughes (Joe) Brewer).
2. My residence address is: 91 Running Knob Hollow Road, Sewanee, Tennessee 37318.
3. I am the President of Tri-County Broadcasting Company, Inc. with offices located at: P.O. Box 398, Cowan, Tennessee.
4. I caused a Petition for Rule Making to be filed with the Federal Communications Commission on behalf of Tri-County Broadcasting Company, Inc. seeking the allotment of Channel 296A to Tullahoma, Tennessee as that community's second, local FM service. In that "Petition," I stated that Tri-County Broadcasting Company, Inc. would apply for Channel 296A, if allotted.
5. At the time the "Petition for Rule Making" was filed with the FCC by Tri-County Broadcasting Company, Inc., we were **not** represented by counsel. I neglected to provide the FCC with an Affidavit verifying that the statements contained in the "Petition" were accurate to the best of my knowledge, pursuant to Sections 1.52 and 1.420(b) of the FCC's rules concerning Rule Making Proceedings.
6. The Notice of Proposed Rule Making directed me to rectify this omission in FORMAL COMMENTS.

7. I, hereby swear, under penalty of perjury, that all of the statements made in the "Petition for Rule Making" filed by Tri-County Broadcasting Company, Inc., requesting the allotment of Channel 296A to Tullahoma, Tennessee, are true, complete and correct to the best of my information, knowledge and belief. Furthermore, Tri-County Broadcasting Company, Inc. hereby re-states that it will apply for Channel 296A at Tullahoma, Tennessee, if allotted by the Federal Communications Commission.

Respectfully submitted,

TRI-COUNTY BROADCASTING COMPANY, INC.

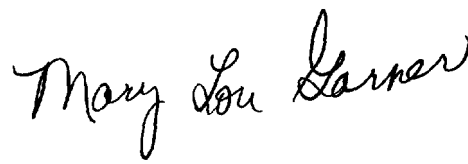
By:



Hughes (Joe) Brewer, President

Dated: November 15, 1996

Tri-County Broadcasting Company, Inc.  
P.O. Box 398  
Cowan, Tennessee 37318

  
My Commission Expires 12-08-99